

REPORT - PLANNING COMMISSION MEETING
January 27, 2005

Project Name and Number: WASHINGTON BOULEVARD (PLN2004-00196)

Applicant: Santa Clara Development Company

Proposal: To consider Tentative Tract Map 7471 and a Preliminary Grading Plan for a 26 lot subdivision

Recommended Action: Approve based on findings and subject to conditions.

Location: 982-990 Washington Boulevard in the Mission San Jose Planning Area.

APN: 513-0604-001-05; 513-0604-005-04; 513-0604-006

Area: 3.96 acres

Owner: Robson Homes, LLC

Agent of Applicant: John Garcia, Santa Clara Development

Environmental Review: A Mitigated Negative Declaration was approved previously for this project at the time of General Plan Amendment approval.

Existing General Plan: Low Density Residential, 5-7 units per acre

Existing Zoning: P-2004-196 (Planned District)

Existing Land Use: Vacant industrial buildings and parking lot in the process of demolition

Public Hearing Notice: Public hearing notification is applicable. 65 notices were mailed to owners and occupants of property within a minimum radius of 300 feet from the site on the following streets: Glenhill Drive, Paseo Padre Parkway, Poda Court, Washington Boulevard, Lerwick Street, and Regan Way. The notices to owners and occupants were mailed on January 14, 2005. A Public Hearing Notice was delivered to The Argus newspaper on January 10, 2005 to be published by January 14, 2005.

Executive Summary: The applicant is requesting approval of Tentative Tract Map 7471 and Preliminary Grading Plan for the subdivision of property to allow 22 detached single-family dwellings and 4 duet units (at total of 26 units) on 3.96 acres.

Background: A General Plan Amendment changing the designation of the project site from a light industrial land use to the current Low Density Residential, 5-7 units per acre designation was approved by City Council on December 9, 2003. The project site was previously occupied by an industrial use, Industrial Electric Manufacturing, Inc. (IEM). The applicant is in the process of demolishing the existing industrial buildings. A Preliminary and Precise Planned District was approved by City Council on December 7, 2004. The project site is located southerly of the intersection of Washington Boulevard and Palm Avenue. The site is bounded to the north, west and south existing single-family homes and to the east by an existing religious facility.

Project Description: The applicant proposes Tentative Tract Map 7471 and a Preliminary Grading Plan for the subdivision of land to allow the development of 22 detached single-family dwellings and 4 duet units (26 units total) on 3.96 acres as shown on the Planned District Precise Plan approved by the City Council in December 2004. Four of the

units, or fifteen percent of the total, will be Below Market Rate (BMR) units, as required by the City's inclusionary housing ordinance. The proposed architecture is Spanish Mission in style and the form and proportions of the proposed residences are derived from the historic Spanish Bungalow style. The twenty-six units vary among five floor plans and eight elevations. The detached units range from 2,279 to 3,358 square feet in size including garage space. The attached duet units are 1,705 square feet including one car garages. The proposed project is consistent with the previously approved small lot Planned District, P-2004-196.

Project Analysis:

General Plan and Zoning Conformance: The existing General Plan land use designation for the project site is Low Density Residential, 5-7 units per acre. The proposal for 26 dwelling units is at a density of 6.5 dwelling units per acre. The proposed project is consistent with the General Plan designation and the approved Planned District. The project meets General Plan Land Use and Housing Goals and Policies as follows:

LAND USE (LU) GOAL 1: NEW HOUSING DEVELOPMENT WHILE CONSERVING THE CHARACTER OF THE CITY'S EXISTING SINGLE FAMILY RESIDENTIAL NEIGHBORHOODS.

The proposed project would meet this goal by developing single-family homes compatible with the surrounding neighborhood, which is generally developed with single-family homes. The residential development would replace an industrial use that is no longer appropriate for the area.

HOUSING (H) GOAL 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City

The proposed residences will provide additional housing opportunities at market rate and will include four BMR units. The proposed project has the potential to enhance the existing neighborhood by providing well-designed housing to replace an incompatible industrial use.

Housing Element Implementation Program 10A: Commercial and Industrial Redesignation

The previously approved General Plan Amendment implemented the a goal of the Housing Element to convert industrial properties east of I-880 for residential use. The proposed Planned District zoning further implements this goal by allowing the construction of 26 additional housing units to meet the City's housing needs.

Street Improvements: The project site is located south of the existing intersection of Washington Boulevard and Palm Avenue. The project proposes the subdivision of twenty-six lots along a new public cul-de-sac street (Palm Way). The new public street alignment was selected to line up with Palm Avenue and to retain existing olive trees in the northwest corner of the site. The required street right-of-way and improvements are discussed below.

Washington Boulevard: The General Plan designation for Washington Boulevard is as an arterial with two lanes in each direction. The required right-of-way dedication is approximately twenty feet. Required street improvements include, but are not limited to, installation of a concrete bus pad, curb, gutter, street trees, landscaping, sidewalk, storm drains, and undergrounding the existing overhead utilities along the project frontage.

Palm Way: Palm Way is a new public cul-de-sac street. The pavement width of the street is proposed to vary from City standards in order to retain three existing olive trees. The pavement width nearest Washington Boulevard is twenty-nine feet, which conforms to the City's standard for frontage road pavement width. Except for the frontage road section, Palm Way is designed to conform to the City standard detail for a cul-de-sac serving twenty units or less, even though the cul-de-sac will serve 26 units. This modification from City standards is proposed to preserve the olive trees as discussed above. The right-of-way width is fifty-two feet, with a pavement width of thirty-two feet. Palm Way terminates with a standard cul-de-sac bulb. Street improvements include, but are not limited to, pavement, curb, gutter, sidewalk, street trees, landscaping, streetlights, and utilities, including fire hydrants.

The street right-of-way dedications and street improvements were required as part of the planned district PLN2004-196 conditions of approval.

Grading/Topography: The project site is currently improved as an industrial use, with a large building in the middle of the site surrounded by asphalt pavement, retaining walls, trees, fences, and utilities. The existing pavement, building, and associated utilities, will be demolished and removed from the site. Development of the industrial building and parking lot included grading that altered the natural topography. The results of this grading included retaining walls along the southern and eastern project boundaries.

The site currently slopes downward to the northwest with existing surface elevations varying between 249 feet in the southeast corner to 217 feet at Washington Boulevard. The project proposes the construction of twenty-six flat-pad homes on small lots. In order to develop flat-pad homes and provide a new public cul-de-sac street that drains to Washington Boulevard, the project design includes several retaining walls. The project civil engineer has estimated grading to be 5,100 cubic yards of cut and 6,800 cubic yards of fill, for a total quantity of 11,900 cubic yards of grading.

The planned district approval included a condition that required additional finished grade information around the proposed homes to demonstrate how the homes will conform to the public sidewalk and street. The applicant has proposed front yard retaining walls in 17 of the 26 lots in order to accommodate the elevation difference between the sidewalk and the finished floor of the homes. In one instance (lot 24), the grade slopes down from the sidewalk elevation and the building pad is at a lower elevation than the sidewalk at the front yard. Staff supports the proposed front yard retaining walls, subject to the following conditions:

- Except as otherwise provided in these conditions, front yard retaining walls shall be limited to a maximum height of 18 inches. Height shall be measured from the elevation of the back of public sidewalk to the elevation of the top of wall.
- Front yard retaining walls shall be setback a minimum of 24 inches from the street right-of-way. The setback shall be measured from the property line to the finished surface of the retaining wall. Front yard retaining walls shall also be setback a minimum of 18 inches from the edge of the driveway pavement within the lot.
- The front yard retaining wall in lot 24 shall be limited to a maximum height of 24 inches and shall be setback a minimum of 36 inches from the street right-of-way. Height shall be measured from the elevation of the back of public sidewalk to the elevation of the bottom of the wall.

Retaining Walls: The planned district approval included a condition that provides flexibility on the regulations related to retaining wall and fence heights, subject to review and approval of the Planning Director and City Engineer. There are retaining walls proposed throughout the project site, primarily along the subdivision boundary and on the property lines between the new lots. The applicant has also proposed front yard retaining walls, which were not included as part of the site plan approved with the planned district. The front yard retaining walls are discussed above.

Successive retaining walls are proposed along the eastern project boundary, in the rear of lots 9 through 15. The building pad elevations for lots 9 through 15 basically follow existing contours, but in order to provide room for the proposed flat-pad homes and yards, the developer is proposing to remove an existing retaining wall, install a new wall on the subdivision boundary, create a 3 to 1 slope (horizontal to vertical) down from the subdivision boundary, and install another retaining wall at the bottom of this slope. The result of this design adds an additional ten feet of flat area along the eastern edge of the project.

Elsewhere on the site, the applicant is proposing retaining walls along side yards and rear yards. For the most part, retaining wall heights are limited to three feet. The only area where wall height exceeds three feet is between rear corners of lots 22/26 and lots 23/25. The proposed grade difference is 5.6 feet between lots 22/26 and 3.8 feet between lots 23/25. Other than as shown or noted on the preliminary grading plan, all rear yard and side yard retaining walls shall be limited to a maximum height of three feet, in conformance with the development standards.

Drainage: The project site currently slopes downward from the southeast corner to the northwest corner. The existing underground storm drain system will be removed during site demolition and a new storm drain system will be installed with the required subdivision improvements.

The proposed storm drain system consists of curb inlets, manholes, and storm drain pipes in the new public street. Storm drainage for each individual lot consists of roof gutters, downspouts, yard drains, and pop-up drainage emitters. Due to the existing drainage pattern of the site and the proposed subdivision design, there are a few lots that do not drain directly to the public street. Lots 4 through 7, Lot 21, and Lot 26, are proposed to include private storm drain easements to convey storm water through adjacent private property before connecting to the public street. The storm drainage system is not approved as part of the tentative map or preliminary grading plan. All on-site and off-site storm drain improvements shall be subject to review and approval of both the City Engineer, for compliance with City standards as well as National Pollutant Discharge Elimination System (NPDES) requirements, and the Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees will include fees for fire protection, capital facilities and traffic impact. Residential projects are also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. The developer will be entitled to fee credits for the removal of the existing industrial structures, if such structures were built at the time the City began to levy such fees.

Waste Management: This project involves residential construction and shall be subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939). The Act requires that 50% of the waste generated in the City of Fremont be diverted from landfill sites by the year 2000. Additionally, the project is subject to the City's Source Reduction and Recycling Element (1992), an Integrated Waste Management Ordinance (1995), and a Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The approved Planned District includes conditions regarding the garage space required for internal storage of one garbage cart and two recycling carts. The conditions also address disposal methods of demolition debris material.

Environmental Analysis: An Initial Study and Mitigated Negative Declaration were prepared for the project at the time the General Plan Amendment was considered. A Mitigated Negative Declaration was adopted by the City Council in December of 2003. There are no new impacts that were not analyzed in that environmental document. A finding is proposed that this project does not represent any new impacts not addressed in the Initial Study and Mitigated Negative Declaration adopted in December of 2003.

Response from Agencies and Organizations: No outside response or comment had been received at the time of publication of this report.

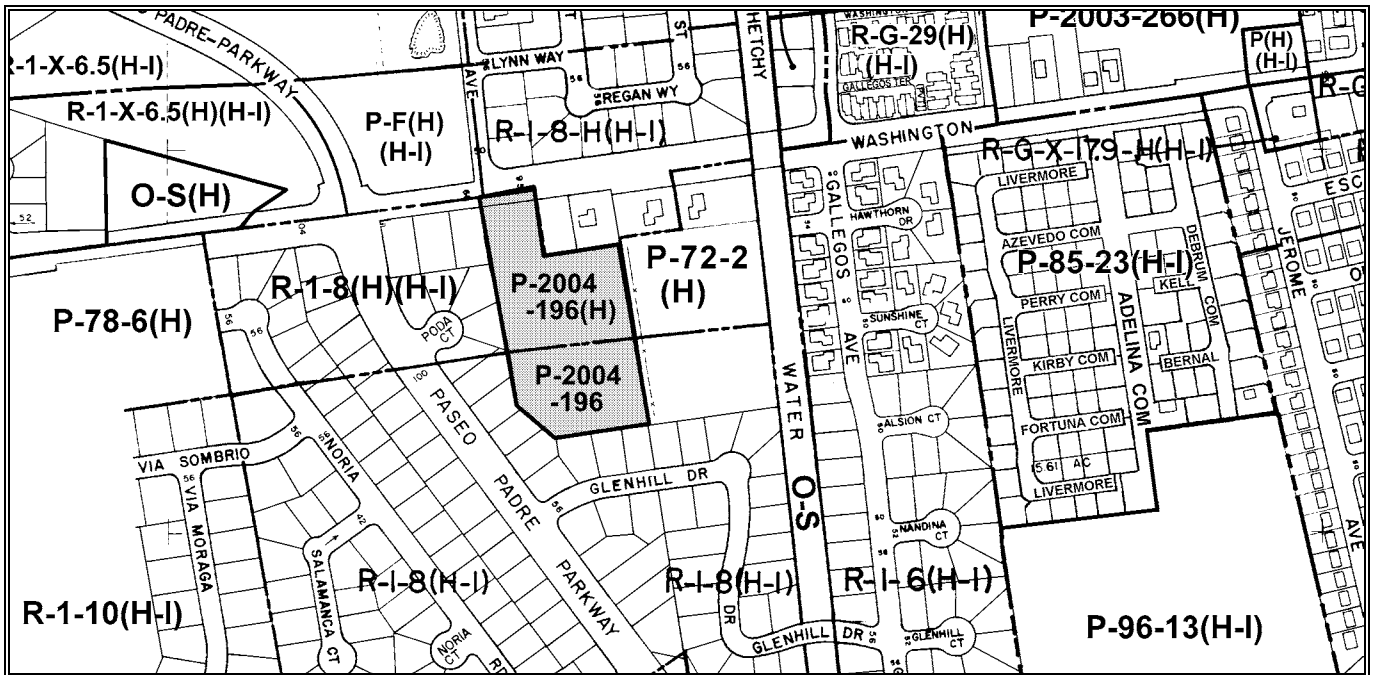
Enclosures: Exhibit "A" (Vesting Tentative Tract Map 7471)
Exhibit "C" (Preliminary Grading Plan)

Exhibits: Exhibit "A" (Vesting Tentative Tract Map 7471)
Exhibit "B" (Findings and Conditions)
Exhibit "C" (Preliminary Grading Plan)
Exhibit "D" (Findings and Conditions)

Recommended Actions:

1. Hold public hearing.
2. Find the previously approved Mitigated Negative Declaration with a Certificate of Fee Exemption addresses the proposed project and no further environmental review is required.
3. Find PLN2004-00196 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within the staff report.
4. Find PLN2004-00196 per Exhibit "A" (Tentative Tract Map 7471and; Exhibit "B" (Findings and Conditions); Exhibit "C" (Preliminary Grading Plan); and Exhibit "D" (Findings and Conditions) fulfills the applicable requirements set forth in the Fremont Municipal Code, except for the cul-de-sac pavement width, which has been modified to preserve existing olive trees.
5. Approve PLN2004-00196 in conformance with Exhibit "A" (Tentative Tract Map 7471and; Exhibit "B" (Findings and Conditions); Exhibit "C" (Preliminary Grading Plan); and Exhibit "D" (Findings and Conditions).

Existing Zoning
Shaded area represents the Project Site



Existing General Plan

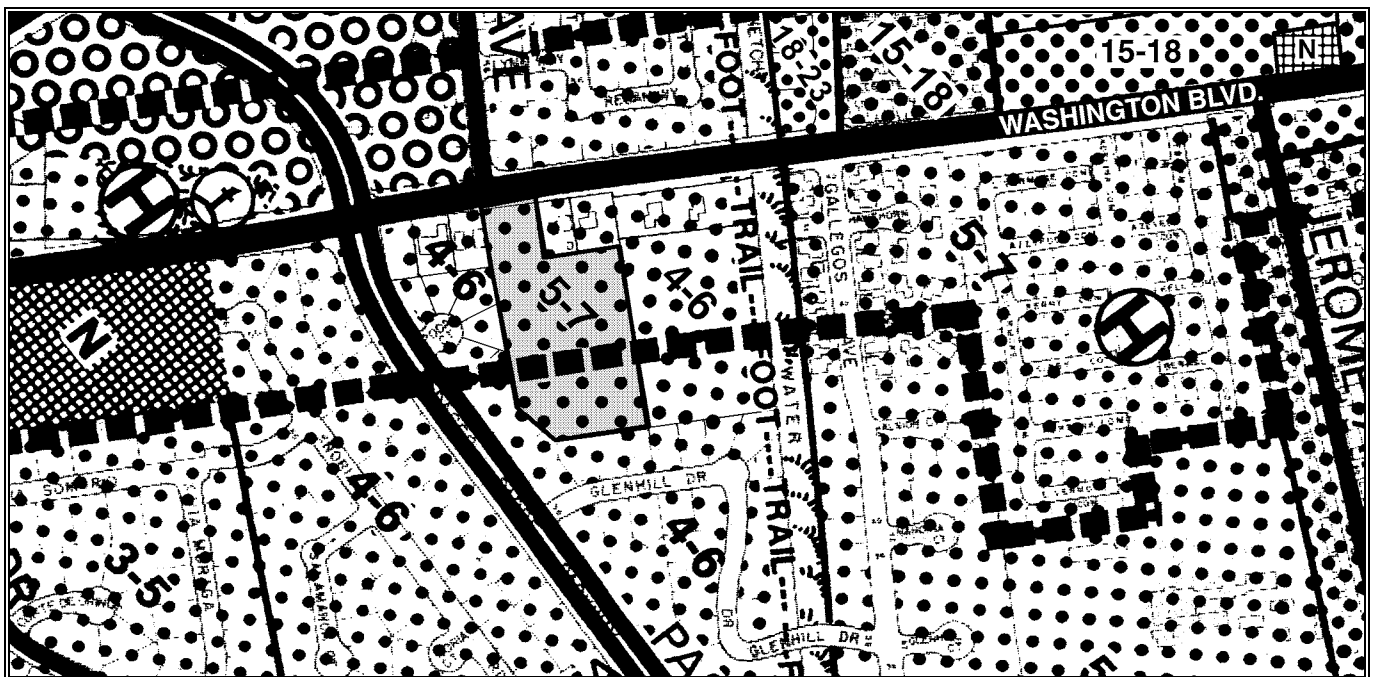


EXHIBIT "B"

WASHINGTON BOULEVARD PLN2004-00196 VESTING TENTATIVE TRACT MAP 7471

FINDINGS

The following findings are made based upon the information contained in the staff report to the Planning Commission dated January 27, 2005, as well as information presented at the public hearing, incorporated hereby:

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the Planned District (P-2004-196) zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan because the proposed development conforms to the requirements of the zoning district as well as the General Plan land use designations for the site.
3. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan and zoning designations for the site.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because of the design and location of the development on an area already developed with industrial buildings.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies, except for the pavement width of the cul-de-sac, which has been modified to preserve existing olive trees.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

CONDITIONS OF APPROVAL:

1. The project shall conform with staff amended Exhibit "A" (Vesting Tentative Map 7471) and Exhibit "C" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District PLN2004-00196.
2. Approval of this Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
3. The subdivider shall establish a Lighting and Landscape Maintenance District to facilitate the periodic maintenance of the olive trees and landscaping on the west side of Palm Way between Lot 26 and Washington Boulevard.
4. The proposed street name, Palm Way, is subject to review, modification, and approval by the City prior to final map approval.
5. The northwest corner of lot 1 shall be a curve of minimum ten-foot radius and the curve shall be tangent to the street right-of-way lines for both Washington Boulevard and Palm Way.
6. Existing private easements within the subdivision boundary shall be abandoned or quitclaimed prior to approval of the final map.
7. Right of access between Washington Boulevard and Lot 1 shall be prohibited in accordance with the Subdivision

Ordinance. This access prohibition shall be shown on the Final Map.

8. The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board, as reasonably determined by the City Engineer. The developer is required to execute and record against the property an Operations and Maintenance Agreement, in a form approved by the City Attorney, for the stormwater and NPDES requirements.
9. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans and final map. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
10. A curb ramp shall be provided on both street corners where Palm Way intersects Washington Boulevard.
11. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7471.
12. Precise geometry and location of all driveways shall be subject to approval of the City Engineer.
13. The development will be subject to Citywide Development Impact Fees. These fees include fees for fire protection, capital facilities, park facilities, park dedication in-lieu, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance. The developer is entitled to a fee credit for removal of the existing industrial building, if such building was subject to and paid development impact fees at the time of construction.
14. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
15. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
16. All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within the public service easement.
17. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
18. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
19. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.

SUBDIVIDER PLEASE NOTE:

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

EXHIBIT "D"

WASHINGTON BOULEVARD Preliminary Grading Plan

FINDINGS

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated January 27, 2005, as well as information presented at the public hearing, incorporated herein.

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not endanger public sewers, storm drains, water courses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
3. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.
4. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A soil study will be done and submitted in conjunction with the Development Organization submittal.
5. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.

PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:

1. The project shall conform with staff amended Exhibit "C" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Vesting Tentative Tract Map 7471 and Planned District P-2004-196.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this Preliminary Grading Plan shall run concurrent with the approval and subsequent extensions of Vesting Tentative Tract Map 7471 (PLN2004-00196). Approval of this Preliminary Grading Plan shall terminate upon the expiration of Vesting Tentative Tract Map 7471.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. Except as otherwise provided in these conditions, front yard retaining walls shall be limited to a maximum height of 18 inches. Height shall be measured from the elevation of the back of public sidewalk to the elevation of the top of wall.
6. Front yard retaining walls shall be setback a minimum of 24 inches from the street right-of-way. The setback shall be measured from the property line to the finished surface of the retaining wall. Front yard retaining walls shall also be setback a minimum of 18 inches from the edge of the driveway pavement within each lot.

7. The front yard retaining wall in lot 24 shall be limited to a maximum height of 24 inches and shall be setback a minimum of 36 inches from the street right-of-way. Height shall be measured from the elevation of the back of public sidewalk to the elevation of the bottom of the wall.
8. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.
9. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
10. All cut and fill slopes shall be graded to a maximum slope of three horizontal to one vertical (3:1).
11. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
12. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
13. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California.
14. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
15. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
16. The project storm drain design shall be subject to review and approval of both the City Engineer and the Alameda County Flood Control and Water Conservation District, prior to Final Map approval.
17. Area drains or landscape drains within individual lots shall not be directly connected to the storm drain main in Palm Way. Where lot drainage is connected to the public storm drain system, the drains shall connect to a curb inlet.
18. Minimum drainage slope on lot pads shall be 1.5%.